

E-Filed 05/14/2010

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ARISTEO RIOS,

No. C 09-05499 RS

Plaintiff,

v.

**ORDER WITHDRAWING ENTRY OF
DEFAULT**

J.R. WEST, INC., d/b/a JOHNNY
ROCKETS, and DOES 1-100,

Defendants.

Plaintiff Aristeo Rios filed a complaint against defendant J.R. West, Inc., d/b/a Johnny Rockets ("West"), on November 19, 2009, claiming, among other things that West had violated the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.* West failed to respond, and plaintiff obtained entry of default on March 4, 2010. He then filed a motion for default judgment, which was heard on May 6, 2010. West did not appear at the hearing. In response to a question from the Court, however, Rios has now filed a supplemental brief conceding that service of the original complaint

No. C 09-02069 RS
ORDER

1 and summons was inadequate. Consequently, he withdraws his motion for default judgment and
2 also requests that entry of default be vacated.

3 The Clerk's entry of default is hereby withdrawn. Should Rios wish to pursue this lawsuit,
4 he must accomplish service of process in compliance with Rule 4.

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6 IT IS SO ORDERED.

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8 Dated: 05/14/2010

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10 RICHARD SEEBORG
11 UNITED STATES DISTRICT JUDGE
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